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| WILLIAMS, MORGAN & AMERSON<br>10333 RICHMOND, SUITE 1100<br>HOUSTON, TX 77042 |             |                      | GRANT, ROBERT J     |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 2838                |                  |

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/740,740

Applicant(s)

BAKER, HOWARD S.

Examiner

Robert Grant

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-54 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 8, 43-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pittman et al. (US 5,998,968) in view of Uribe et al. (US 6,635,369).

As to Claim 1, Pittman discloses a cell maintenance device, comprising: a switch (Figure 1, element Q3); and a pulse generator capable of pulsing a cathode of at least one cell through the switch when the switch is closed (Column 11, lines 29-31).

Pittman does not expressly disclose this method being used on a fuel cell. Uribe teaches a method for improving fuel cell performance by pulsing the cathode of a fuel cell (Column 2, lines 39-46). It would have been obvious to a person having ordinary skill in the art at the time of this invention to use the system of Pittman with fuel cells, as Uribe teaches it would improve the performance of the fuel cells.

As to Claim 8, Pittman discloses the fuel cell maintenance device of claim 1, wherein at least one of the switch and the pulse generator is capable of receiving power returned from the fuel cell stack (Column 11, lines 29-31).

As to Claim 43, Pittman discloses a cell maintenance device, comprising: means for imposing a low impedance across at least one cell of a cell (Column 3, lines 53-63); and a pulse generator capable of pulsing a cathode of the at least one cell of a fuel cell stack through the low impedance imposing means (Column 11, lines 29-31). Pittman does not expressly disclose this method being used on a fuel cell. Uribe teaches a method for improving fuel cell performance by pulsing the cathode of a fuel cell (Column 2, lines 39-46). It would have been obvious to a person having ordinary skill in the art at the time of this invention to use the system of Pittman with fuel cells, as Uribe teaches it would improve the performance of the fuel cells.

As to Claim 44, Pittman in view of Uribe disclose the fuel cell maintenance device of claim 43, wherein the low impedance imposing means includes a switch that imposes the low impedance when closed and receiving a pulse from the pulse generator (Figure 1, element Q3).

3. Claims 2-7, 9-42, 44-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pittman et al. in view of Uribe et al. in further view of lino et al. (US 6,313,637)

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As to Claim 2, Pittman in view of Uribe discloses the fuel cell maintenance device of claim 1, wherein the switch comprises: a relay capable of shorting the cell of a fuel cell stack ((figure 1, element Q3). Neither Pittman nor Uribe teach of using a dielectrically isolated driver. lino teaches of using dielectrically isolated drivers to control the operation of a battery stack (Figure 1, element 20a). It would have been obvious to a person having ordinary skill in the art at the time of this invention to combine the teachings of lino, and use dielectrically isolated driver in order to isolate part of the circuitry.

As to Claim 3, Pittman further discloses the maintenance device of claim 2, wherein the relay comprises a solid-state relay (Column 11, lines 31-32).

As to Claim 4, Pittman, Uribe and lino disclose the fuel cell maintenance device of claim 2, wherein the relay is further capable of shorting a second cell of the fuel cell stack (Pittman's maintenance device in conjunction with the battery stack of lino).

As to Claim 5, Pittman in view of Uribe disclose the fuel cell maintenance device of claim 1. Neither Pittman nor Uribe expressly teach of the system being used in a multi cell system. lino teaches of a detecting and controlling system for a multi cell stack. It would have been obvious to a person having ordinary skill in the art at the time of this invention to duplicate the parts of Pittman and use the system for maintenance with lino's stack of cell. Which then yields a second switch through which the pulse

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generator is capable of pulsing a cathode of a second cell when the second switch is closed (Pittman Column 11, lines 29-31); and a control circuit capable of controlling to which of the first and second relays the pulse generator output is transmitted (lino Figure 1, element 1).

As to Claim 6, Pittman, Uribe, and lino disclose the fuel cell maintenance device of claim 5, wherein the second switch includes: a second relay capable of shorting at least a second cell of a fuel cell stack (Pittman Figure 1, element Q3) ; and a second dielectrically isolated driver capable of driving a second relay responsive to the pulse generator output (lino Figure 1, element 20b).

As to Claim 7, Pittman, Uribe, and lino disclose the fuel cell maintenance device of claim 6, wherein at least one of the first relay and the second relay is further capable of shorting one of a third cell and a fourth cell of the fuel cell stack (Pittman Column 3, lines 23-25) (The relay of Pittman with his multi cell battery can be shorting a third and fourth cell).

As to Claim 9, Pittman in view of Uribe teach the fuel cell maintenance device of claim 8 and further comprising a voltage regulator coupled to at least one of the switch and the pulse generator (Figure 1, element 24, Q3, 17). Neither Pittman nor Uribe expressly disclose wherein the system is configured to receive the power returned from the fuel cell stack. lino teaches that the battery stack is used to supply some power to

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the battery monitoring (figure 1). It would have been obvious to a person having ordinary skill in the art at the time of this invention to use the power that is being released by the battery during the pulsing for the system, and not let it just be wasted.

As to Claim 10, Pittman in view of Uribe disclose the fuel cell maintenance device of claim 1. Neither Pittman nor Uribe expressly teach of the system being used in a multi cell system. lino teaches of a detecting and controlling system for a multi cell stack. It would have been obvious to a person having ordinary skill in the art at the time of this invention to duplicate the parts of Pittman and use the system for maintenance with lino's stack of cell. Which would then yield the pulse generator (Pittman figure 1, element 17) is capable of pulsing a cathode of a second cell when the switch is closed (The second cell would come for the stack of cells as shown by lino).

As to Claim 11, Pittman discloses a cell maintenance device, comprising: at least one relay capable of shorting at least one cell (Column 11, lines 29-31); and a pulse generator (element 17) capable of pulsing a cathode of the cell through the relay. Pittman does not expressly disclose the system using fuel cells, or having a dielectrically isolated driver. lino teaches of using a dielectrically isolated driver (figure 1, element 20a) for the benefit of electrically separating components, and still being able to read and control there functions. Uribe teaches a method for improving fuel cell performance by pulsing the cathode of a fuel cell (Column 2, lines 39-46). It would have been obvious to a person having ordinary skill in the art at the time of this

invention to use the system of Pittman with fuel cells, as Uribe teaches it would improve the performance of the fuel cells.

As to Claim 12, Pittman discloses the fuel cell maintenance device of claim 11, wherein the relay comprises a solid-state relay (Column 11, lines 31-32).

As to Claim 13, Pittman, Uribe, and lino disclose the fuel cell maintenance device of claim 11, wherein the relay is further capable of shorting a second cell of the fuel cell stack (Pittman figure 1, element Q3) (When using a stack of cells such as lino does, it is necessary to duplicate the parts or Pittman's original design)

As to Claim 14, Pittman, Uribe, and lino disclose the fuel cell maintenance device of claim 11, further comprising: a second relay capable of shorting at least a second cell of a fuel cell stack (see claim 13); a second dielectrically isolated driver capable of driving second relay responsive to the pulse generator output (lino figure 1, element 20b); and a control circuit capable of controlling to which of the first and second relays the pulse generator output is transmitted (lino Figure 1, element 1).

As to Claim 15, Pittman, Uribe, and lino disclose the fuel cell maintenance device of claim 14, wherein at least one of the first relay and the second relay is further capable of shorting one of a third cell and a fourth cell of the fuel cell stack (Pittman Column 3,

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lines 23-25) (The relay of Pittman with his multi cell battery can be shorting a third and fourth cell).

As to claim 16, Pittman, Uribe, and lino teach the fuel cell maintenance device of claim 11, wherein at least one of the relay (Pittman Figure 1, element Q3), the dielectrically isolated driver (lino Figure 1, element Q3) and the pulse generator (Pittman Figure 1, element 17). Neither Pittman, Uribe, nor lino expressly teach where the above elements receive power returned from the fuel cell stack. lino does teach that the battery stack is used to supply some power to the battery monitoring (figure 1). It would have been obvious to a person having ordinary skill in the art at the time of this invention to use the power that is being released by the battery during the pulsing for the system, and not let it just be wasted.

As to Claim 17, Pittman further discloses the fuel cell maintenance device of claim 16, further comprising a voltage regulator (Figure 1, element 24) through which at least one of the relay, the dielectrically isolated driver and the pulse generator is capable of receiving power returned from the fuel cell stack (see rejection for claim 16).

As to Claim 18, Pittman, Uribe, and lino disclose the fuel cell maintenance device of claim 11, wherein the pulse generator (Pittman Figure 1, element 17) is capable of pulsing a cathode of a second cell through the relay (Pittman Column 11, lines 29-31)

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when the dielectrically isolated driver closes the relay to short the cell (Iino figure 1, element 20a).

As to Claim 19, Pittman discloses a cell maintenance device for maintenance device comprising: at least one relay electrically connected in parallel across the cell (figure 1, element Q3); and a pulse generator (Figure 1, element 17) to pulse a cathode of the cell through the relay. Pittman does not expressly disclose wherein the cell is a fuel cell and part of a fuel cell stack, nor does he disclose the use of a dielectrically isolated driver to control the system. Iino teaches of using a dielectrically isolated driver in his cell stack system (Figure 1, element 20b and 101-120). The Dielectric isolated drivers are used electrically separate the battery stack from the controller, while allowing the control to maintain control and monitor the system. It therefore would have been obvious to one having ordinary skill in the art at the time of this invention to combine the teaching of Iino and use a dielectrically isolated device to control Pittman's system. Uribe teaches a method for improving fuel cell performance by pulsing the cathode of a fuel cell (Column 2, lines 39-46). It would have been obvious to a person having ordinary skill in the art at the time of this invention to use the system of Pittman with fuel cells, as Uribe teaches it would improve the performance of the fuel cells.

As to Claim 20, Pittman further discloses the fuel cell maintenance device of claim 19, wherein the relay comprises a solid-state relay (Column 11, lines 31-32).

As to Claim 21, Pittman discloses the fuel cell maintenance device of claim 19, wherein the relay is further electrically connected in parallel across a second cell of the fuel cell stack (Pittman Figure 1, element Q3).

As to Claim 22, Pittman, Uribe and lino disclose the fuel cell maintenance device of claim 19, further comprising: a second relay electrically connected in parallel across a second cell of a fuel cell stack (Pittman's system in combination with the cell stack of lino, seen in claim 19); a second dielectrically isolated driver capable (lino Figure 1, element 20b) of driving second relay responsive to the pulse generator output (Pittman Figure 1, element 17); and a control circuit capable of controlling to which of the first and second relays the pulse generator output is transmitted (lino Figure 1, element 1).

As to Claim 23, Pittman, Uribe, and lino disclose the fuel cell maintenance device of claim 22, wherein at least one of the first relay and the second relay is further capable of shorting one of a third cell and a fourth cell of the fuel cell stack (Pittman Column 3, lines 23-25) (The relay of Pittman with his multi cell battery can be shorting a third and fourth cell).

As to Claim 24, Pittman, Uribe, and lino discloses the fuel cell maintenance device of claim 19, wherein at least one of the pulse generator (Pittman Figure 1, element 17), the relay (Pittman Figure 1, element Q3), the dielectrically isolated driver (lino Figure 1, element Q3). Neither Pittman, Uribe, nor lino expressly teach where the

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above elements receive power returned from the fuel cell stack. lino does teach that the battery stack is used to supply some power to the battery monitoring (figure 1). It would have been obvious to a person having ordinary skill in the art at the time of this invention to use the power that is being released by the battery during the pulsing for the system, and not let it just be wasted.

As to Claim 25, Pittman further discloses the fuel cell maintenance device of claim 24, wherein the power returned includes a voltage regulator (Figure 1, element 24) (see rejection for claim 24).

As to 26, Pittman, Uribe, and lino disclose the fuel cell maintenance device of claim 19, wherein: the relay is electrically connected in parallel across a second cell (Pittman figure 1, element Q3, in addition to the cell stack of lino); and the pulse generator (Pittman figure 1, element 17) is electrically connected to the dielectrically isolated driver (lino Figure 1, element 20b) to pulse a cathode of the second cell through the relay when the dielectrically isolated driver closes the relay (Pittman column 11, lines 29-31).

As to Claim 27, Pittman, Uribe, and lino discloses an apparatus, comprising: a fuel stack (Uribe Column 2, lines 39-46), including a plurality of cells (lino Figure 1, elements 101-120); a switch bank, including a plurality of switches, each switch electrically connected in parallel across at least one of the cells (Pittman discloses

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using a switch (figure 1 element Q3) to pulse a cell, and therefore in a multi cell system, such as lino, multiple switches must be used) ; a pulse generator capable of pulsing the cathodes of the cells when the respective switch is closed (Pittman Column 11, lines 29-31); and a control circuit (Pittman Figure 1, element 17) electrically connected in series between the pulse generator and the switch bank to sequentially open and close the switches. It would have been obvious to one having ordinary skill in the art at the time of this invention to combine the teachings of Pittmans battery reconditioning with the cell stack of lino so that the cells in the stack will maintain an excellent state of health.

As to Claim 28, Pittman, Uribe, and lino disclose the apparatus of claim 27, wherein each switch comprises: a relay capable of shorting at least one cell of a fuel cell stack (Pittman Figure 1, element Q3); and a dielectrically isolated driver capable of driving the relay (lino Figure 1, element 20a).

As to Claim 29, Pittman discloses the apparatus of claim 28, wherein the relay comprises a solid-state relay (Column 11, lines 31-32).

As to Claim 30, Pittman, Uribe, and lino disclose the apparatus of claim 28, wherein the relay is further capable of shorting a second cell of the fuel cell stack (see rejection for claim 27).

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As to Claim 31, Pittman, Uribe, and lino disclose the apparatus of claim 27, wherein each switch is capable of shorting a plurality of cells (Pittmans switch is connected to a battery, the battery can be made up of multiple cells (column 1, lines 23-25)).

As to claim 32, Pittman, Uribe, and lino disclose the apparatus of claim 27, wherein at least one of the switch bank and the pulse generator is capable of receiving power returned from the fuel cell stack (Column 11, lines 29-31).

As to Claim 33, Pittman, Uribe, and lino disclose the apparatus of claim 32, further comprising a voltage regulator (Pittman figure 1, element 24) through which at least one of the switch bank and the pulse generator is capable of receiving power returned from the fuel cell stack (see above rejection for claim 25).

As to Claim 34, Pittman, Uribe, and lino disclose the apparatus of claim 27, wherein the cells are proton exchange membrane fuel cells (Uribe Column 1, lines 52-63).

As to Claim 35, Pittman, Uribe, and lino disclose the apparatus of claim 27, wherein control circuit includes: a counter driven by a clock; and a multiplexer multiplexing the output of the pulse generator to the switches responsive to the count of the counter (lino Column 5, lines 19-25).

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As to Claim 36, Pittman discloses a method for transparently maintaining cells, the method comprising: sequentially pulsing the cathodes of a plurality of cells (column 11, lines 29-31). Pittman does not expressly disclose using fuel cells, nor does he expressly disclose maintaining consistent power to the load. Uribe teaches a method for improving fuel cell performance by pulsing the cathode of a fuel cell (Column 2, lines 39-46). It would have been obvious to a person having ordinary skill in the art at the time of this invention to use the system of Pittman with fuel cells, as Uribe teaches it would improve the performance of the fuel cells. lino teaches of maintaining a consistent number of the cells providing power to a load, by sequentially monitoring the cells. lino's sequential monitoring method would be used in Pittmans reconditioning system would allow only one battery to be pulsed at a time, and therefore would make sure a consistent number of cells would be available.

As claim 37, Pittman, Uribe, and lino discloses the method of claim 36, wherein pulsing the cathodes includes: generating a pulse train (Pittman Figure 3a); and sequentially supplying the pulse train to the cells (lino teaches of sequentially moving from cell to cell (Column 11, lines 26-36)).

As to Claim 38, Pittman, Uribe, and lino disclose the method of claim 37, wherein sequentially supplying the pulse train to the cells includes: supplying the pulse train to a first cell of the fuel cell stack to pulse a cathode thereof (Pittman Figure 3a); and switching the supply of the pulse train from the first cell to a second cell of the fuel

stack to pulse a cathode thereof (lino teaches of sequentially moving from cell to cell (Column 11, lines 26-36)). It therefore would have been obvious to a person having ordinary skill in the art at the time of this invention to use lino's method of moving from cell to cell, with Pittmans cell pulsing, in order to efficiently pulse all the cells.

As to Claim 39, Pittman, Uribe, and lino disclose the method of claim 36, wherein sequentially pulsing the cathodes of the cells includes: supplying the pulse train to a first cell of the fuel cell stack to pulse a cathode thereof (Pittman Figure 3a); and switching the supply of the pulse train from the first cell to a second cell of the fuel stack to pulse a cathode thereof (lino teaches of sequentially moving from cell to cell (Column 11, lines 26-36)). It therefore would have been obvious to a person having ordinary skill in the art at the time of this invention to use lino's method of moving from cell to cell, with Pittmans cell pulsing, in order to efficiently pulse all the cells.

As to Claim 40, Pittman, Uribe, and lino disclose the method of sequentially pulsing the cathodes of the cells includes: supplying the pulse train to a first cell of the fuel cell stack to pulse a cathode thereof (Pittman Figure 3a); and switching the supply of the pulse train from the first cell to a second cell of the fuel stack to pulse a cathode thereof (lino teaches of sequentially moving from cell to cell (Column 11, lines 26-36)). It therefore would have been obvious to a person having ordinary skill in the art at the time of this invention to use lino's method of moving from cell to cell, with Pittmans cell pulsing, in order to efficiently pulse all the cells.

As to Claim 41, Pittman, Uribe, and Iino disclose the method of claim 40, wherein supplying the pulse train to the first cell includes counting the pulses in the pulse train and switching the supply includes switching the supply responsive to the count (Iino Column 11, lines 26-36) (see rejection for claim 40).

As to Claim 42, Pittman, Uribe, and Iino disclose the method of claim 40, wherein: supplying the pulse train to the first cell to pulse the cathode thereof includes supplying the pulse train to a first pair of cells of the fuel cell stack (Pittman Column 11, lines 29-31 and Battery can be made up of 2 cells, Column 1, lines 23-25), the first pair including the first cell (Figure 1, internal to element 16), to pulse the cathodes thereof (Column 11, lines 29-31); and switching the supply of the pulse train from the first cell to the second cell of the fuel stack to pulse the cathode thereof includes switching the supply of the pulse train from the first pair of cells to a second pair of cells, the second pair of cells including the second cell, to pulse the cathodes thereof (Iino teaches of switching between cells (Column 11, lines 26-36)). Therefore the combination of the Iino and his cell stack, with Pittman and his battery reconditioned would yield the above limitations.

As to Claim 45, Pittman and Uribe disclose the fuel cell maintenance device of claim 44, wherein the switch comprises: a relay capable of shorting the cell of a fuel cell stack (Pittman Figure 1, element Q3); Neither Pittman nor Uribe teach of using a

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dielectrically isolated driver. lino teaches of using dielectrically isolated drivers to control the operation of a battery stack (Figure 1, element 20a). It would have been obvious to a person having ordinary skill in the art at the time of this invention to combine the teachings of lino, and use dielectrically isolated driver in order to isolate part of the circuitry.

As to claim 46, Pittman further discloses the fuel cell maintenance device of claim 45, wherein the relay comprises a solid-state relay (Column 11, lines 31-32).

As to Claim 47, The fuel cell maintenance device of claim 45, wherein the relay is further capable of shorting a second cell of the fuel cell stack (Pittman figure 1, element Q3) (When using a stack of cells such as lino does, it is necessary to duplicate the parts or Pittman's original design) .

As to Claim 48, Pittman in view of Uribe disclose the fuel cell maintenance device of claim 43. Neither Pittman nor Uribe expressly teach of the system being used in a multi cell system. lino teaches of a detecting and controlling system for a multi cell stack. It would have been obvious to a person having ordinary skill in the art at the time of this invention to duplicate the parts of Pittman and use the system for maintenance with lino's stack of cell. Which then yields a s second means for imposing a low impedance across at least a second cell of a fuel cell stack (Pittman Column 11, lines 29-31); and a control circuit capable of controlling to which of the first and second

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low impedance imposing means the pulse generator output is transmitted. (Iino Figure 1, element 1).

As to Claim 49, Pittman, Uribe, and Iino disclose the fuel cell maintenance device of claim 48, wherein the second low impedance imposing means includes a second switch (Pittman Figure 1, element Q3, which would be duplicated for the multi cell stack as per the combination of the Iino reference) that imposes the low impedance when closed and receiving a pulse from the pulse generator (Pittman Column 11, lines 29-31).

As to Claim 50, Pittman, Uribe, and Iino disclose the fuel cell maintenance device of claim 49, wherein the second switch includes: a second relay capable of shorting at least a second cell of a fuel cell stack (see claim 13); a second dielectrically isolated driver capable of driving second relay responsive to the pulse generator output (Iino figure 1, element 20b).

As to Claim 51, Pittman, Uribe, and Iino disclose the fuel cell maintenance device of claim 50, wherein at least one of the first relay and the second relay is further capable of shorting one of a third cell and a fourth cell of the fuel cell stack (Pittman Column 3, lines 23-25) (The relay of Pittman with his multi cell battery can be shorting a third and fourth cell).

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As to claim 52, Pittman, Uribe, and lino teach the fuel cell maintenance device of claim 43, wherein at least one of the low impedance imposing means (Pittman Figure 1, element Q3) and the pulse generator (Pittman Figure 1, element 17). Neither Pittman, Uribe, nor lino expressly teach where the above elements receive power returned from the fuel cell stack. lino does teach that the battery stack is used to supply some power to the battery monitoring (figure 1). It would have been obvious to a person having ordinary skill in the art at the time of this invention to use the power that is being released by the battery during the pulsing for the system, and not let it just be wasted.

As to Claim 53, Pittman further discloses the fuel cell maintenance device of claim 52, further comprising a voltage regulator (Figure 1, element 24) through which at least one of the switch and the pulse generator is capable of receiving power returned from the fuel cell stack (see rejection for claim 52).

As to Claim 54, Pittman, Uribe, and lino disclose the fuel cell maintenance device of claim 43, wherein the pulse generator (Pittman figure 1, element 17) is capable of pulsing a cathode of a second cell through the low impedance imposing means (Pittman Column 11, lines 29-31) (With the combination of the mulit cell system as taught by lino).

### ***Response to Arguments***

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3. Applicant's arguments filed 3-1-06 have been fully considered but they are not persuasive.

4. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

5. As to the arguments with regard to claim 1, it appears that the main point of the argument is directed towards Pittman in view of Uribe. Pittman teaches of pulsing a cathode of a battery in order to recondition the battery. Pittman further states that a battery generally consists of a polarity of cells (Column 1, lines 23-26). The Examiner agrees that Pittman is not directed at fuel cell in particular. Uribe on the other hand teaches a method which would improve the performance of a fuel cell by pulsing the cathode of a fuel cell. Uribe does not disclose a circuit which would do this, but Pittman does disclose such a circuit. Therefore, the applicant is directed to the rejection above as well as the motivation provided for the combination.

6. As to Claim 43, Pittman teaches all the components for maintenance of a cell, but does not disclose the cell being a fuel cell. Uribe is relied upon for teaching of the benefits of using a fuel cell in such a system. Applicant is directed to the rejection of claim 43 above.

7. As to Claim 2, lino is only relied upon for the teaching of a benefit of adding a dielectrically isolated driver to the system of Pittman. Applicant is directed to the rejection above.

8. As to Claim 5, lino is relied upon for the teaching of providing detecting and controlling of multiple cells in the cell stack. Applicant is directed to the rejection above.

9. As to Claim 9, lino is teaching a benefit of adding a dielectrically isolated driver to the system of Pittman. Applicant is directed to the rejection above.

10. As to Claim 10, All the elements of the claim are show, and motivation is provided above.

11. As to Claim 11, All the elements of the claim are show, and motivation is provided above.

12. As to Claim 16, the Examiner never stated common sense as a motivation. As stated above, lino does teach that the battery stack does provide some power to the monitor. Therefore it would have been an obvious modification for Pittman, Uribe in views of lino to use some of the power from the fuel cell to return power to the device.

13. As to claim 19, the arguments presented here have been previously addressed, and motivation is provided in the above rejection.

14. As to Claim 24, applicant is directed to the response to argument for claim 16 above.

15. As to Claim 27, all the limitations of the claim have been addressed, and motivation for there combination has been provided above.

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16. As to Claim 36, lino teaches to sequentially connecting to the battery, he does not teach pulsing a battery. When combined lino with Pittman's pulsing, who only teaches a device with one battery, you get lino's multi connection to multi cell with the pulsing of Pittman. While a cell is being pulsed, it can't provide power safely to a source, and therefore is inadvisable to use as part of a power source.

17. As to Claim 40, All the elements and motivation are clearly seen in the office action.

18. As to Claim 45, lino is not relied upon to teach what is argued. lino is only relied upon to teach the dielectrically isolated drivers, response to those arguments can be seen above, and motivation is in the rejection.

19. As to Claim 48, All the elements of the claim are clearly pointed out above, and motivation is provided in the rejection.

20. As to Claim 52, applicant is directed to the responses to arguments for claim 16.

21. As to Claim 54, response to these arguments is presented above.

### ***Conclusion***

22. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Grant whose telephone number is 571-272-2727. The examiner can normally be reached on M-F 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Sherry can be reached on 571-272-2084. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RG



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